

78TH CONGRESS }
1st Session }

SENATE

Calendar No. 537

{ REPORT
No. 529

CARL SWANSON AND OTHERS

NOVEMBER 12, 1943.—Ordered to be printed

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1875]

The Committee on claims, to whom was referred the bill (H. R. 1875) for the relief of Carl Swanson, Geraldine Cecelia Swanson, a minor, and Almer Swanson, having considered the same, report favorably thereon and recommend that the bill do pass with the following amendment:

Page 2, line 1, strike out the figures "\$2,500" and insert in lieu thereof the figures "\$1,574.05".

The facts will be found fully set forth in House Report No. 168, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 168, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1875) for the relief of Carl Swanson, Geraldine Cecilia Swanson, a minor, and Almer Swanson, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

An identical bill was favorably reported by your committee but objected to on the floor of the House and recommitted to your committee during the Seventy-seventh Congress.

The facts will be found fully set forth in House Report No. 567, Seventy-seventh Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 567, 77th Cong., 1st sess.]

The purpose of the proposed legislation is to pay to Carl Swanson, of Mason City, Iowa, the sum of \$3,000, to the legal guardian of Geraldine Cecelia Swanson, a minor, the sum of \$2,500, and to Almer Swanson, of Mason City, Iowa, the sum of \$300 in full settlement of all claims for personal injuries and death resulting from a collision between a car in which they were riding and a Works Progress Administration truck, on October 14, 1936.

A car operated by Merle Swanson was traveling east on a highway designated as "County Road Z." At this point there was a side road extending from the south, but which terminated at its intersection with County Road Z. The Works Progress Administration truck driver drove into the intersection and testified that the Swanson car, which was traveling east, struck the truck, resulting in the death of Merle Swanson a few hours later and in injury to Geraldine Cecelia Swanson, and in damage to the Swanson car. A photograph of the truck shortly after the collision tells its own story and indicates that the Swanson car had no way to avoid a collision with the truck.

The Swanson car was driven under the bed of the truck. The driver, Merle Swanson, was taken to the hospital and was visited by his father throughout the day. He died from his injuries that night. Geraldine Cecelia Swanson was also taken to the hospital, suffering from numerous injuries received. The Works Progress Administration truck driver, William F. Davis, and Merle and Geraldine Swanson, were the only three eyewitnesses. An investigation was made by the authorities following the accident, and the Works Progress Administration truck driver testified that there was a "Stop" sign and that he brought the Works Progress Administration truck to a stop, but that he did not see the Swanson car until he entered the intersection, due to the fact that there were scattered trees and brush to his left. He also testified that the Swanson car was traveling at a high rate of speed and was 300 feet away when he saw it, and that the driver apparently lost control. Following the accident the brakes of the Swanson car were tested and were found to be not in good condition. Based upon the claims of the truck driver, a report was made absolving the truck driver from negligence and indicating that the collision was due to the negligence of Merle Swanson. There was a coroner's inquest which, based upon this testimony, resulted in a finding that the Works Progress Administration truck driver was not at fault and that the collision resulted from the acts of Merle Swanson.

Subsequent to these developments, affidavits presenting additional testimony have been submitted to the Works Progress Administration and also to the Committee on Claims in the House of Representatives. One of these affidavits was made by Carl Swanson, the father of Merle Swanson, and one by Geraldine Cecelia Swanson. Merle Swanson stated on his deathbed to his father as follows (and we quote from the father's affidavits):

"Conscious as he was that his end was near, he told me as best he could how the accident happened. He said that he was not driving fast but that the truck shot out in front of him from the blind intersection and that he did not have a chance."

There is nothing in the files to indicate that the father's statement was obtained in connection with any of the foregoing investigations.

In an affidavit by Geraldine Cecelia Swanson, she states as follows:

"On the morning of October 14, 1936, we left home [Merle and I] about 8 o'clock in the morning. We went the same way that we always drove, which was over east to the Rock Falls Road and then straight east on the gravel highway to Rock Falls. I think the road is called the County Z Road. When we got to a point about a mile west of Rock Falls, a large truck, loaded with niggerhead stones,

shot out across the highway immediately in front of our car. At the time, my brother, Merle, was driving about 30 miles an hour. He put on his brakes and did everything he could to avoid striking the truck but we were so close together that it was impossible to miss it. I just remember the truck looming up in front of us and an awful crash, and remember nothing else until I woke up later in the hospital."

None of this testimony was available in connection with the investigations that were made for the purpose of fixing the responsibility for the accident.

Following the accident, statements in writing were made by Henry Uschkrat and Marjorie Brown and by William Maher. These various statements were prepared for their signatures by the investigators and in part relate the statements made by the Works Progress Administration truck driver. Neither of these parties witnessed the accident.

A subsequent affidavit has been obtained from Henry Uschkrat, who speaks of his conversation with Mr. Davis, the truck driver, and in this affidavit he says: "To the best of my recollection the only thing that Mr. Davis said concerning how the accident happened, was, 'I stopped my truck, and started out—I saw a car coming but thought I could make it.'"

Marjorie Brown also made a subsequent affidavit in which she states:

"I heard the truck driver say that he saw the car, in which Merle Swanson was riding, approaching but that he thought he could pull out onto the highway safely. I don't recall his exact words but I believe he said, 'I thought I could make it.'"

None of this evidence was before the investigators when they made the original investigation.

The Work Projects Administration, with the above evidence before it, on April 14, 1941, submitted a report, going into detail and indicating that there was a conflict in the evidence. Attention in this report is called to the inspection of the brakes after the accident, but there is absolutely no evidence to show that the brakes on the Swanson car were not in good condition prior to the accident. If the Swanson car was traveling at the rate of 30 miles per hour, and if the truck driver observed it when it was a hundred feet away, it would take about 2 seconds of time for the collision to occur.

The Work Projects Administration, after discussing the evidence, says that in view of the conflict they refrain from making recommendations and leave the determination as to liability to the Committee on Claims.

As above indicated, the photograph, and this is substantiated by the evidence of the people who came upon the scene of the accident shortly after it occurred, shows that the Swanson car struck at right angles the bed of the Works Progress Administration truck. Your committee can reach only one conclusion, namely, that the Swanson car was being operated properly and that the collision occurred because the truck driver pulled into the intersection squarely in the path of the Swanson car. Regardless of whether or not the Works Progress Administration truck driver observed the "stop" sign and came to a stop, it is evident that he did exactly what Merle Swanson said he did, namely, "shot out in front of him from the blind intersection."

As heretofore indicated, Merle Swanson died in the hospital that afternoon. He was 15 years of age at the time of his death. The committee recommends payment of \$3,000 to his estate.

The girl, Geraldine Cecelia Swanson, was 13 years of age at the time of her injury. A recent examination by the doctor who treated her when she was taken to the hospital, states that she has an 11-centimeter scar across the midforehead which is permanent, and that she still has headaches which are related to the injury, and that there has been persistent secondary anemia since the accident. In view of her disfigurement, and in view of these other factors, this committee feel that she should be entitled to the sum of \$2,500.

The owner of the car made statements, and has also submitted an affidavit, that the value of the car prior to the accident was \$300. The car was a total loss, and this committee recommend that Almer Swanson receive \$300 for his damage sustained in the loss of the car.

Attached hereto is the report of the Work Projects Administration to the Committee on Claims under date of April 14, 1941, together with other pertinent papers.

FEDERAL WORKS AGENCY,
WORK PROJECTS ADMINISTRATION,
Washington, D. C., April 14, 1941.

HON. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives.*

DEAR MR. McGEHEE: Reference is made to your letter of March 25, 1941, and my acknowledgment of March 27, 1941, relative to H. R. 3180, a bill for the relief of Carl Swanson, Geraldine Cecelia Swanson, a minor, and Almer Swanson.

The Administration's report is as follows:

The bill proposes to appropriate "to Carl Swanson, of Mason City, Iowa, the sum of \$10,000, in full settlement of all claims against the United States for the death of his son, Merle Swanson, resulting when an automobile, driven by said Merle Swanson, was involved in a collision with a Works Progress Administration truck; and to the legal guardian of Geraldine Cecelia Swanson, a minor, of Mason City, Iowa, the sum of \$3,000, in full settlement of all claims against the United States for personal injuries sustained by her when an automobile, in which she was riding, was involved in a collision with a Works Progress Administration truck; and to Almer Swanson, of Mason City, Iowa, the sum of \$300, in full settlement of all claims against the United States for damage to the automobile, of which she was the owner, involved in a collision with a Works Progress Administration truck, on county Z road, about a mile west of Rock Falls, Iowa, on October 14, 1936."

It appears that at about 9 a. m. on October 14, 1936, a collision occurred on Cerro Gordo County Z Road, at a point approximately 1 mile west of Rock Falls, Iowa, near a corner where a narrow side road met the county road. The collision involved a truck being operated by a Works Progress Administration employee and an automobile owned by Almer Swanson and driven by Merle Leroy Swanson, aged 15½ years. As a result of the accident, Merle Leroy Swanson and his minor sister, Geraldine Cecelia Swanson, the only passenger in the automobile, sustained personal injuries. Merle Leroy Swanson died from his injuries that evening.

Apart from the occupants of the vehicles, Merle Leroy Swanson, Geraldine Cecelia Swanson, and William F. Davis, the Works Progress Administration truck driver, the accident was unwitnessed. Mr. Davis, in an affidavit dated October 15, 1936, avers that "On the morning of October 14, 1936, I was assigned to hauling rock from the Mickelson farm, which is located 1 mile west and 1 mile south of Rock Falls, Iowa. At about 9 a. m. I pulled to County Road No. 2, which runs east and west, and stopped. At this corner there is a lot of trees and brush, which makes it very hard to see. I was about half way across the road when I saw a car coming from the west at a very high rate of speed. The car was about 20 rods away when I first saw it. At this time it was on the north side of the road. The driver, Merrill Swanson, tried to bring this car back to the right side of the road and in doing so must have lost control of it. The Swanson car swerved from the right side of road and back and forth for four times. The fourth time across the road is when he hit my truck; at which time I did everything in my power to get my truck out of his way. I tried to make the ditch but this was impossible. The Swanson car struck my truck at the left front door, and then the car was driven under the bed of my truck, crushing the radiator and the left side of the Swanson car, and it pinned Merrill Swanson under the steering wheel. At the time of the accident my truck was completely over on my right side of the road and was headed west. My right front wheel was over on the grass."

An investigation conducted by the Works Progress Administration for Iowa disclosed that the limit of visibility to the west of the intersection in question did not exceed 100 feet, and that the driver of a vehicle entering this intersection could not gain a clear view of the road to the west until he had driven part of the way onto the county road. It also disclosed that the side road did not continue north across the county road but ended at this point.

Geraldine Cecelia Swanson, who was 13 years old at the time of the accident, in an affidavit dated January 19, 1938, avers that at about 8 a. m., October 14, 1936, she and her brother, Merle Swanson, who was driving the automobile, were traveling along County Z Road, a gravel highway leading to Rock Falls, the route they always used in going to school; that "When we got to a point about a mile west of Rock Falls, a large truck, loaded with niggerhead stones, shot out across the highway immediately in front of our car. At the time my brother, Merle, was driving about 30 miles an hour. He put on his brakes and did everything he could to avoid striking the truck but we were so close together that it was impossible to miss it. I just remember the truck's looming up in front of us and an awful crash and remember nothing else until I woke up later in the hospital." She further avers that Mr. Davis, driver of the truck, came to the hospital to see her and, after expressing his regret that the accident had occurred, stated that he had seen the Swanson automobile coming down the road but thought that if he hurried he could make it across the highway.

Merle Swanson, the remaining witness to the accident, made no affidavit before he died. However, Carl Swanson, who visited his son at the hospital on the day of the accident, and learned that Merle could not live, in an affidavit dated January 19, 1938, avers that "Conscious as he [his son] was that his end was near, he told me as best he could how the accident happened. He said that he was not driving fast but that the truck shot out in front of him from the blind intersection and that he didn't have a chance. Merle died that same day a little before 6 o'clock in the afternoon."

Although there were no other persons who actually witnessed the accident, Marjorie Brown, Henry Uschkrat, and William Maher arrived at the scene soon after it occurred. Henry Uschkrat, in an affidavit dated October 15, 1936, merely sets forth the driver's version of the accident as related to him. His affidavit contains nothing to indicate that the driver admitted that the accident was due to his own negligence. On the contrary, it discloses that the accident was not attributable to the negligence of the truck operator.

Marjorie Brown, in an affidavit dated October 15, 1936, avers that when she arrived at the scene of the accident "* * * the Works Progress Administration truck had made the turn and it was on the nearly right side of the road." Mr. Maher, in an affidavit of the same date, avers that another Works Progress Administration truck reached the scene of the accident and was used to separate the Swanson car from the first truck and that "There was plenty of room for this truck to get between the Swanson car and the mailbox which is on the south side of the road." The testimony of Marjorie Brown and William Maher tends to establish the fact that the collision took place on the north side of the road and that the truck had completed its turn when it was struck.

In connection with the affidavits of Marjorie Brown and Henry Uschkrat, attention is called to the fact that each subsequently submitted an additional affidavit, both affidavits being dated January 18, 1938, which contradict their original affidavits. In the later affidavits they state that the truck and automobile had apparently come together in about the center of the county road; that they found the truck and car locked, the truck extending in a northwesterly direction with its right front wheels on the edge of the traveled portion of the highway; and that the rear end thereof extended south of the center line of the highway. Both have added a statement that the truck driver told them he saw a car coming but that he thought he could make it. Since the subsequent affidavits contradict the original affidavits the Administration is of the opinion that their credibility as witnesses is questionable and, therefore, that their testimony should not be accepted.

An inquest was held in the matter and, under date of October 16, 1936, J. E. McDonald, coroner of Cerro Gordo County, Iowa, reported as follows:

"Investigation was asked for by transient camp at Mason City on October 15. I proceeded to the place of accident and called witnesses. I had two experts, Clyde Bean and Frank Beal, examine the Chevrolet car wheels and their sworn statement was that the brakes were only 10 percent perfect. The truck, bearing Dodge license No. 489, was coming up a hill in low gear and was in plain sight of the occupants of the car while more than 300 feet away. The boy was not able to stop and struck the truck back of the front fender and front wheel; the front of the car was completely crushed in and back to the front seat. An accident, with poor or no brakes, was the cause."

In affidavits dated October 15, 1936, Frank Beal and Clyde Bean say that the car driven by the deceased had about 10 percent braking power and that "with the brakes in this condition it would be impossible to stop the car within a reasonable distance while driving at a high rate of speed."

While the brake inspection was made after the accident took place, it is customary to make an inspection of this kind at such time. The claimants offer no evidence to explain the poor condition of the brakes as disclosed by the inspection, nor to establish the condition of the brakes just prior to the accident. However, Almer Swanson in an affidavit dated June 18, 1938, states that "I had put new tires on this car during the spring of 1936 and had repaired it and had it in good running order. I had new rings, new valves, and bearings adjusted, and the brakes adjusted at the time." It may be added that the automobile was a 1932 model and, therefore, 4 years old at the time of the accident.

The evidence on one side tends to prove that the accident was caused by the negligence of Merle Swanson, and that the Works Progress Administration truck driver exercised due care under the circumstances. It appears from the testimony of William F. Davis, the Works Progress Administration employee operating the truck, that he stopped at the "Stop" sign and exercised reasonable care when turning into the county road, and that the accident was due to the negligent manner in which Merle Swanson operated the automobile. According to the report of Coroner J. E. McDonald the accident was due to faulty brakes on the Swanson automobile, and the affidavit of Mr. William Maher indicates that there was ample clearance between the truck and the south side of the county road for Merle Swanson to have passed safely around the truck had he been driving on his side of the road and had he maintained proper control of the automobile.

The evidence to the contrary tends to prove that the accident resulted from the Works Progress Administration truck driver's negligence. Geraldine Cecelia Swanson avers that the truck shot out across the highway immediately in front of the Swanson automobile. The evidence of Carl Swanson, giving Merle's version of the accident, while it would not appear to be admissible in a court of law, establishes that, in Merle Swanson's opinion, the truck shot out into the highway without warning. It may be noted, however, that neither Merle Swanson nor Geraldine Cecelia Swanson stated that the truck failed to stop in obedience to the "Stop" sign.

In view of the conflict of evidence, the Administration deems it advisable to refrain from recommending for or against enactment of the proposed legislation, believing that your committee is in a better position to determine the question of whose negligence caused the accident.

There are enclosed herewith photostatic copies of pertinent papers and the original affidavits enclosed with your communication of March 25, 1941.

Sincerely yours,

CORRINGTON GILL,
Assistant Commissioner.

STATE OF IOWA,
Cerro Gordo County, ss:

I, Carl Swanson, being first duly sworn on my oath, depose and say that I am 57 years of age; am a citizen of the United States of America and a resident of Cerro Gordo County, Iowa; that with my family I live on a farm approximately 4½ miles northeast of Mason City, and was living on said farm during the fall of 1936.

That during October 1936 two of my children, Merle, age 15, and Geraldine, age 13, attended high school at Rock Falls, Iowa. Merle drove his brother's car to and from school and had been doing this all that fall. My children left home about 8 o'clock on the morning of October 14, 1936. The first I heard of any accident involving my children was when my son, Vance, told me that they were in the hospital in Mason City. I hurried to the hospital and found Geraldine unconscious and my son, Merle, dying.

Merle's left leg was crushed, and I was advised by the doctors that they didn't think they could save him by reason of the terrible shock from which he was suffering. At times he regained consciousness and talked with me very intelligently about the chores and seemed to try to cheer me up. The doctors had told him that there was very little chance for his recovery, and Merle knew that he could not make it.

Conscious as he was that his end was near, he told me as best he could how the accident happened. He said that he was not driving fast but that the truck shot out in front of him from the blind intersection and that he didn't have a chance. Merle died that same day a little before 6 o'clock in the afternoon.

I was around the hospital all of that day and spent as much time every day at the hospital with Geraldine as I could. At no time have I seen Mr. Davis, who was driving the Works Progress Administration truck. He never came up to the farm to see me nor did he ever look me up at the hospital.

My family now consists of six boys and four girls, some of whom are married. I am renting the farm on which I live and have been unable to pay the hospital expenses and funeral expenses which this accident occasioned. The funeral bill, as rendered by the Patterson Funeral Home of Mason City, is \$395.92. The cost of the burial lot is \$175. The doctor and hospital bill, as rendered by the Park Hospital for services rendered to my daughter, Geraldine, and covering a period beginning October 14, 1936, to and including October 24, 1936, is \$74.05. The bill as rendered by the Park Hospital, covering doctor and hospital services rendered for my son, Merle, is \$29.30. In addition to this, I paid a nurse \$7 for taking care of Merle.

Merle was a strong, able-bodied boy and did considerable work on the farm. As a matter of fact, he did most of the chores. I went out to the scene of the accident on the 14th day of October 1936, and the pictures attached to this affidavit correctly give the view as it appeared to me on the 14th day of October 1936.

I have read the above statement, and the contents therein contained are true as I verily believe.

CARL SWANSON.

Subscribed and sworn to before me this 19th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, JR., Notary Public.

STATE OF IOWA,

Cerro Gordo County, ss:

I, Geraldine Cecelia Swanson, being first duly sworn on my oath, depose and say that I am the daughter of Carl and Hulda Swanson, who live on a farm about $4\frac{1}{2}$ miles northeast of Mason City. Our family consisted of my father, mother, seven brothers, and three sisters. I am now 14 years old and my last birthday was September 2, 1937. I am in my second year of high school and go to school at Rock Falls, Iowa, which is about $4\frac{1}{2}$ miles east of my father's farm. I have gone to school in Rock Falls since the fall of 1934. I always went to school with my brother, Merle. The car that we rode in was a 1931 Chevrolet coach that belonged to my brother, Elmer. Merle always drove the car and he always drove in a careful manner. I know that when the law required drivers to have a driver's license, Merle took the examination and passed it.

On the morning of October 14, 1936, we left home (Merle and I) about 8 o'clock in the morning. We went the same way that we always drove, which was over east to the Rock Falls road and then straight east on the gravel highway to Rock Falls. I think the road is called the County Z Road. When we got to a point about a mile west of Rock Falls, a large truck, loaded with niggerhead stones, shot out across the highway immediately in front of our car. At the time my brother, Merle, was driving about 30 miles an hour. He put on his brakes and did everything he could to avoid striking the truck but we were so close together that it was impossible to miss it. I just remember the trucks looming up in front of us and an awful crash and remember nothing else until I woke up later in the hospital. I don't even remember the medical treatment that was given me at the hospital. My mother and father told me nothing about my brother's death until the day before the funeral. I was later told that the truck which we collided with was a Works Progress Administration truck driven by Mr. Davis. Mr. Davis later came in to see me at the hospital. I am not sure of just when he came in, but it was after Merle's funeral. He seemed to feel awful bad and told me he was so sorry that it had happened but that he saw us coming down the road and thought that if he hurried he could make it across the highway. The road that he was traveling on before he got to the corner does not extend any further to the north, and he was attempting to turn to the left when we struck him.

He didn't make any suggestion of any kind that he thought we were driving fast or that it was in any way Merle's fault. From everything he said, I took it that he knew it was his fault but was so sorry that it had happened.

In the accident I received a bad and deep gash in my forehead, which extended clear across my forehead in a line parallel with the hairline and about an inch and a half below. It has left a scar approximately 7 inches long. I learned that

I had suffered a concussion and at times now I suffer severe headaches and in cold weather the scar itself causes me a lot of discomfort.

I have read the above statement and everything I have said is true.

GERALDINE SWANSON.

Subscribed and sworn to before me, a notary public in and for Cerro Gordo County, Iowa, by Geraldine Cecelia Swanson this 19th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, Jr., Notary Public.

STATE OF IOWA,
Cerro Gordo County, ss:

I, Henry Uschkret, being first duly sworn on my oath, depose and say that I am a resident of Cerro Gordo County, Iowa, and live on a farm about 1 mile west of Rock Falls, and am 35 years of age. My home is located on the southwest corner of the intersection where the accident occurred. On the 14th day of October 1936, shortly before 9 o'clock in the morning, my wife told me that an accident had just occurred at the corner. I later learned that a Works Progress Administration truck, which was being driven by W. F. Davis, a resident of the Works Progress Administration transient camp just north of Mason City, had collided with a car being driven by Merle LeRoy Swanson. Davis came up to the house, and I remember him saying that as he came to the corner he saw a car coming down the highway but thought that he could make it in safety and pulled out into the road in front of the approaching automobile. I believe that I was at the scene of the accident within 5 minutes after it happened. The truck and the car had apparently come together in about the center of the east and west highway, and at a point in line with the west edge of the north and south highway. When I arrived at the scene of the accident the Works Progress Administration truck and car were locked, the truck extending in a northwesterly direction with its right front wheels on the edge of the traveled portion of the highway. The rear end of the truck extended south of the center line of the east-west highway for a distance of approximately 1 to 3 feet. The truck was a Dodge ton and a half, with a flat box, and was loaded with niggerheads.

It seemed that the Swanson car had come in contact with the left front corner of the box of the truck, and the car was wedged under the truck. I wouldn't be sure as to where the car and the truck came together with reference to any marks on the truck, but it seemed to me that the car first struck immediately behind the cab and then was wedged underneath the box of the truck, the right front bumper of the car finally being wedged into the left rear steel wheel of the truck. By reason of the position of the car it was impossible to get Merle Swanson out of the wreckage, his leg seemed to be caught or wedged by the frame of the automobile pressing down against it. The driver of the truck had taken Geraldine Swanson out and had placed her on the ground. Mr. Dedina picked Geraldine up and placed her in the car of Mrs. Marjorie Brown, a resident of Rock Falls. We were unable to get Merle out of the wreckage until his car was pulled free by another Works Progress Administration truck which came along very shortly.

I observed no loose gravel at the scene of the accident, and there were no tire marks which I observed on either the north-south highway or east-west highway which indicated the relative positions that the two cars were in prior to the accident. The gravel at this point was quite hard and did not give the appearance of having been recently dragged.

The view to the west is very obscured to anyone driving in a northerly direction on the north-south road by reason of a heavy growth of trees and shrubbery on the southwest corner of the intersection. It was really a blind intersection.

To the best of my recollection the only thing that Mr. Davis said concerning how the accident happened was, "I stopped my truck, and started out—I saw a car coming but thought I could make it." It took us some little time to get Merle out of the car and, to the best of my recollection, he was taken into the hospital at Mason City by Mr. Tibbetts and one of the Works Progress Administration drivers.

I have read the above statement, and the contents therein contained are true as I verily believe. I also state that, from the observations I made at the time of the accident, I feel that the driver of the Works Progress Administration truck was to blame for the accident.

HENRY USCHKRET.

Subscribed and sworn to before me this 18th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, Jr., Notary Public.

STATE OF IOWA,
Cerro Gordo County, ss:

I, Marjorie Brown, being first duly sworn on my oath, depose and say that I am a resident of Rock Falls, Iowa; that on the 14th day of October, 1936, I arrived at the scene of an accident resulting from a collision between a Works Progress Administration truck and a car driven by Merle Swanson. That I have this day read the affidavit of Mr. Henry Uschkret; and his description of the position of the cars, the condition of the highway, and the appearance of the cars immediately after the collision coincides exactly with mine. That I heard the truck driver say that he saw the car in which Merle Swanson was riding, approaching but that he thought he could pull out onto the highway safely. I don't recall his exact words but I believe he said, "I thought I could make it." The roadbed was settled hard gravel and no tire marks of any kind were discernible. The road had not been dragged recently.

I took the little girl, Geraldine Swanson, in my car to the hospital at Mason City. She was about 13 years of age and was unconscious most of the trip into Mason City. My father and Mr. Dedina held her and did the best they could to comfort her. However, at times, she would regain consciousness and seem to be suffering intense pain. After the accident, Mr. Davis, the driver of the truck, appeared to be very excited and did everything he could to help the situation. However, he made no claim at any time that he was not to blame. Instead, he kept wringing his hands and saying, "I have killed them. I have killed them."

I have read the statement over, along with the affidavit heretofore set forth, and the contents therein contained are true. From my observations, I believe that the accident happened as a result of the negligence of the driver of the Works Progress Administration truck.

(MRS.) MARJORIE BROWN.

Subscribed and sworn to before me this 18th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, Jr., *Notary Public*.

STATE OF IOWA,
Cerro Gordo County, ss:

We, John Dedina and George Tibbitts, being first duly sworn state:

That we have read the affidavits this day given by Henry Uschkret and Marjorie Brown, and believe their description of the highway, the appearance of the Swanson car and Works Progress Administration truck immediately after the accident and their position on the highway to be correctly and accurately set forth by Mr. Uschkret and Mrs. Brown.

We helped as best we could to give aid to the injured parties. However, we had an opportunity to examine the highway and observed no tracks of any kind made by the Swanson car as the roadway was hard and settled and there was no loose gravel there. From the observations made at the scene of the accident, I believe it would not have happened were it not for the fact that the driver of the truck took a chance in coming out onto the highway in the face of the oncoming automobile. We feel the driver of the Works Progress Administration truck is to blame.

JOHN DEDINA.
GEO. TIBBITTS.

Subscribed and sworn to before me this 18th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, Jr., *Notary Public*.

STATE OF IOWA,
Cerro Gordo County, ss:

I, R. L. Dixon, being first duly sworn, on my oath depose and say that I am a resident of Plymouth, Iowa; that I am familiar with the location of the Works Progress Administration transient camp located a few miles north of Mason City. That throughout the summer and fall of 1936 several Works Progress Administration projects were in progress in my part of the country, which were being performed by the men in the transient camp. That on a great number of occasions Works Progress Administration trucks from the transient camp carried supplies and materials through the town of Plymouth and on those occasions I have observed them.

That during the month of October, and for some time prior thereto, one of the Works Progress Administration projects consisted in building a dam in the Shell-rock River. In the progress of this work, a large number of logs were transported to the dam site, as was truckloads of niggerheads, cement, and sand. A large portion of this material was transported in the very truck that figured in the Swanson accident. I have noticed throughout the summer and fall of 1936 that the drivers of these trucks were very careless in their manner of observing traffic signs. They flagrantly disregarded the "Stop" signs in the town of Plymouth. So much so, in fact, that their practice received comment from the citizens of the town. It was also noticeable that after the accident they did obey the law and did observe the "Stop" signs.

I went out to the scene of the Swanson accident the next day after the accident and observed the condition of the highway at this point. There was no loose gravel and the roadbed was hard and settled. There was no appearance of any recent road work having been performed.

I am engaged in the selling of farm machinery in the town of Plymouth and have no personal interest of any nature whatsoever in this transaction.

R. L. DIXSON.

Subscribed and sworn to before me this 18th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, JR., *Notary Public.*

STATE OF IOWA,
Cerro Gordo County, ss:

I, Almer Swanson, being first duly sworn on my oath, depose and say that I was the owner of the Chevrolet automobile which my brother, Merle, was driving at the time of the collision with the Works Progress Administration truck driven by Mr. Davis. The car was damaged beyond repair. Immediately prior to the collision the reasonable market value of my automobile was \$300.

ALMER SWANSON.

Subscribed and sworn to before me, a notary public in and for Cerro Gordo County, Iowa, by Almer Swanson this 19th day of January A. D. 1938.

[SEAL]

J. A. SENNEFF, JR., *Notary Public.*

JUNE 19, 1938.

Received from Carl Swanson, Forty-four dollars and thirty cents. For account, duplicate receipt.

PARK HOSPITAL AND CLINIC,
By V. SWEEGER, *Secretary.*

MASON CITY, IOWA, *January 19, 1938.*

Gerald Swanson, R. F. D. No. 2, Mason City, Iowa, in account with Park Hospital, admitted October 14, 1936, dismissed October 24, 1936, room No. 304, rate \$25 per week.

Room, 1 week and 3 days, \$36.25; operating room and supplies, \$1; dressings and drugs, \$1.80; total, \$39.05; professional services, \$35; total, \$74.05. By Dr. R. R. Flickinger.

MASON CITY, IOWA, *January 19, 1938.*

Merle Swanson, R. F. D. No. 2, Mason City, Iowa, in account with Park Hospital, admitted October 14, 1936; dismissed, deceased, October 14, 1936.

Room, \$3; dressings and drugs, \$1.30; total, \$4.30; professional services, \$25; total, \$29.30. By Dr. G. M. Crabb, per R. R. Flickinger.

L. W. PATTERSON

LICENSED EMBALMER AND FUNERAL DIRECTOR

MASON CITY, IOWA, June 18, 1938.

Mr. CARL SWANSON,
R. F. D., Mason City, Iowa:

Oct. 14, 1936:

Casket, Armeo iron vault, preparing body for burial, funeral coach, autos, and services-----	\$392. 00
Sale tax-----	3. 92

Total-----	395. 92
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Credit: September 1937, by check (Mr. Carl Swanson)-----	60. 00
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Balance due-----	335. 92
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L. W. PATTERSON, Owner.

MEMOPIAL PARK CEMETERY, CREDIT DEPARTMENT

MASON CITY, IOWA, June 18, 1938.

CARL SWANSON,
Rural Delivery.
Mason City, Iowa.
(For Merle Swanson.)

Following is a statement of your account, which is shown as unpaid on our ledgers. Your early attention will be appreciated. October 15, 1936, one grave, \$42. 25; interment, \$15; total \$57.25. Paid January 19, 1937. By Carl Swanson, father. By G. M. Woodruff, manager.

PARK HOSPITAL CLINIC,
Mason City, Iowa, June 18, 1938.

Mr. E. M. VEST,
Director, State Compensation Department,
700 R. U. L. Building, Des Moines, Iowa.

DEAR MR. VEST: At the request of your representative I am forwarding a statement regarding Merle Swanson whom we took care of on October 14, 1936. He was in an automobile accident near Rock Falls. On examination here the boy was unconscious. He had a fracture midway between the knee and the hip on the left thigh. He was in severe shock with labored respiration and rapid, weak pulse and considerable intracranial injury. He lived until 6:30 p. m. that evening. I think this was due to intracranial injuries and severe shock resulting from the head injury and injury to left thigh.

Very truly yours,

R. R. FLICKINGER, M. D.

PARK HOSPITAL CLINIC,
Mason City, Iowa, June 18, 1938.

Mr. E. M. VEST,
Director, State Compensation Department,
700 R. U. L. Building, Des Moines, Iowa.

DEAR MR. VEST: At the request of your representative I am also reporting on Geraldine Swanson who was in the accident on October 14 with her brother. She had a deep scalp wound along the hair margin extending across the forehead and down to the periosteum of the cranium. There was some concussion. I closed this wound with black silk sutures and kept the child in bed in the hospital with daily dressings until the 24th of October. We saw her occasionally for dressings until November 9, 1936.

I have seen her on several occasions since and the only permanent damage I can see is a scar across the forehead. She has had some middle-ear infection but I do not believe this is at all related to a previous injury.

Very truly yours,

R. R. FLICKINGER, M. D.

MASON CITY, IOWA, *June 18, 1938.*

To Whom It May Concern:

I, Almer Swanson, residing at rural route No. 2, Mason City, Iowa, do hereby state that I was the sole owner of the Chevrolet 1932 coach that was wrecked on the morning of October 14, 1936, in a collision between the above-car driven by my brother, Merle, and a truck driven by William Davis, of the Works Progress Administration transient camp of Mason City, Iowa.

This Chevrolet was purchased from the S. & R. Chevrolet Co., of Mason City, Iowa, in the fall of 1935.

I had paid for this in full. The damage sustained to my car in this wreck is estimated at \$300. There was no salvage value to the car, as it is now standing in a neighbor's yard without repairs, and the tires have been stolen. I do not intend to repair this car as it was damaged beyond repair.

I had put new tires on this car during the spring of 1936 and had repaired it and had it in good running order. I had new rings, new valves, and bearings adjusted, and the brakes adjusted at the time. I consider that this added some value to the car. The mileage was between 31,000 and 32,000 miles.

ELMER SWANSON.

[Telegram]

MASON CITY, IOWA, *April 28, 1941.*

HENRY O. TALLE, M. C.

Washington, D. C.:

Geraldine Swanson has 11-centimeter scar across midforehead which is permanent and due to automobile accident October 14, 1936, involving Works Progress Administration truck and Swanson car. Headaches are related to injury, but rest of complaints are part due to eyestrain. There has been persistent secondary anemia since accident.

R. R. FLICKINGER, M. D.

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